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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**
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9 DANIEL HERNANDEZ,

10 Plaintiff,

11 v.

12 NYE COUNTY SCHOOL DISTRICT, *et*
13 *al.*,

14 Defendants.

Case No. 2:10-CV-00749-KJD-RJJ

ORDER

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16 Before the Court is Defendant Robert M. Carson's Motion for Dismissal Without Prejudice
17 (#35). Plaintiff has responded (#40).

18 **I. Background**

19 Plaintiff alleges that Defendant Carson forged email correspondence evidencing a sexual
20 relationship between Plaintiff and a high school student and published this correspondence to school
21 officials, local media, and others. Allegedly this correspondence was a factor in Plaintiff's
22 termination from his job with the Nye County School District. Plaintiff asserts a cause of action for
23 defamation and defamation per se against Defendant Carson. Defendant Carson is not represented by
24 counsel.

25 **II. Analysis**
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Pro se litigants are not held to the same standard as admitted or bar licensed attorneys. Haines v. Kerner, 404 U.S. 519, 521. Pleadings by *pro se* litigants, regardless of deficiencies, should only be judged by function, not form. Id. Nonetheless, a *pro se* plaintiff is not entirely immune from the civil rules of procedure. Although the Court must construe the pleadings liberally, “[*p*]ro se litigants must follow the same rules of procedure that govern other litigants.” King v. Atiyeh, 814 F.2d 565, 567 (9th Cir.1987). See also, Ghazali v. Moran, 46 F.3d 52, 54 (9th Cir.1995) (“Although we construe pleadings liberally in their favor, *pro se* litigants are bound by the rules of procedure.”); Jacobsen v. Filler, 790 F.2d 1362, 1364 (9th Cir.1986) (“[*P*]ro se litigants in the ordinary civil case should not be treated more favorably than parties with attorneys of record.”). Fed. R. Civ. P. 7(b)(1)(B) requires that all motions “state with particularity the grounds for seeking the order.” See e.g. Rhodes v. Robinson, 2010 WL 3516342, *2 (9th Cir. 2010) (district court correctly disregarded motion “because it did not ‘state with particularity the grounds for seeking the order’ as required by Federal Rule of Civil Procedure 7(b)(1)(B)”).

Here, Defendant Carson’s Motion to Dismiss seeks an order dismissing him from the case and conclusorily states that he is “not part of the case.” However, he provides no grounds whatsoever for seeking this order. Plaintiff still has a pending cause of action for defamation, intends to take Defendant Carson’s deposition, and indicates that Defendant Carson is still part of the case. Accordingly, the motion is denied.

III. Conclusion

IT IS HEREBY ORDERED that Defendant Carson’s Motion for Dismissal Without Prejudice (#35) is **DENIED**.

DATED this 19th day of July 2011.



Kent J. Dawson
United States District Judge